

1984

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TO: Mr. G.C. Bible / PMI New York

DATE: July 2, 1984

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URGENT

WEEKLY HIGHLIGHTS / JUNE 25-29, 1984

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SWITZERLAND

A major breakthrough has been achieved on the Barclay case.

On Friday, June 29, 1984, the Geneva Court issued an Order prohibiting BAT (Suisse) S.A. from claiming 1 mg. tar and 0.2 mg nicotine on the packaging, advertising and publicity related to BARCLAY and seizing all BARCLAY product held by BAT with the 1 / 0.2 claims. Below is an English translation of the order:

The Court:

Orders the provisional seizure of all cigarette packs, held by the Defendant, carrying the trademark "BARCLAY" and on which the packaging carries the indication "condensate 1 mg. - nicotine 0,2 mg. - determined according to standard methods".

Forbids the Defendant to offer for sale, to sell and to put in circulation in any other manner "BARCLAY" cigarettes in packaging claiming an amount of tar (condensate) of 1 mg. and of nicotine of 0,2 mg.

Forbids the Defendant to use in its advertising, in its publicity through the press, printed matter or also in its cinema advertising, any reference to an amount of tar (condensate) of 1 mg. and/or of nicotine of 0,2 mg. in connection with the sale and distribution of "BARCLAY" cigarettes

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Orders in addition the seizure of all publicity material (catalogues, prospectuses, posters) held by the Defendant related to "BARCLAY" cigarettes offered in packaging claiming an amount of 1 mg. of tar (condensate) and/or of 0,2 mg. of nicotine.

All subject to the threat of penalties provided for in Article 292 of the Swiss Penal Code, namely, arrest or fines, in case of violation of the provisional seizure and/or the prohibitions specified above.

Subjects the effectiveness of this Order to the delivery by the Plaintiffs to the Clerk of the Court, as sureties, of a bank guarantee of Fr. 500,000.-.

Grants the Plaintiffs a strict time-limit of 30 days to act on the merits and states that this Order will continue in effect until final judgement or agreement between the parties.

Fines the Defendant for all of the costs of the proceeding, as well as a share of Fr. 10,000.- of the fees of the Plaintiffs' attorneys.

Fixes the emolument owed to the Court at Fr. 5,000.-.

Requires the Defendant to reimburse the Plaintiffs for said emolument.

Dismisses the Defendant on all other issues.

Done and announced in Geneva, in the Council Chamber, on 29 June 1984.

BAT can appeal to the Federal Court to have the Order reversed and request that the Order be suspended pending the appeal. Our lawyers believe BAT will not succeed in getting the Order reversed. Our lawyers in Geneva are prepared to contact the Federal Court, as soon as they hear of any motion for appeal or suspension, to combat any inclination of the Court to suspend the Order.

The plaintiffs (FTR, Laurens, Burrus, RJR) have 30 days to file their briefs on the merits of their motion for a permanent injunction, namely by Friday, July 27, 1984.

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The timing on future legal proceedings is:

7/2
order
suspended
pending appeal -
PM to argue
for reinstatement
of order

- A request by BAT for suspension of the Order pending appeal would presumably be lodged very soon and it would be decided on very rapidly.
- A decision on an appeal of the Order could take 2-3 months.
- Proceedings on the merits of the case leading to a permanent injunction could take 2-3 years.

We are presently putting together a marketing activity plan in order to take advantage of this preliminary injunction.

An announcement to the European press is being issued tonight, a copy of which will be sent to New York.

ICELAND

A new tobacco law has just been passed by the Icelandic Parliament which will be effective January 1, 1985, replacing the previous law of 1977. The main changes will be :

1. Cigarettes have to be out of sight at retail stores (i.e. under the counter).
2. All restaurants must have areas for non-smokers.
3. Total smoking ban on board domestic flights.
4. No cigarette advertising on board Icelandic flights.
5. Cigarettes are not allowed to be sold to youngsters under the age of 16 years.

We are presently investigating to what extent the industry can still change certain aspects of this new law.

Regards,

Walter Thoma

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